MT LEGISLATIVE HISTORY

Chapter 461 1993

Bill (H) 205 S _____ Original bill & hist. ___C

H. Committee on Fish & Game

Hearing Date(s) Jan 29 ✓C
Feb 07 ✓C
_____ ___C
_____ ___C

Date Out _____ ___C

S. Committee on Fish & Game

Hearing Date(s) Mar 06 ✓C
_____ ___C
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_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

FISH AND GAME COMMITTEE

Januarry 29, 1973

The committee was called to order at 10:30 a.m., with all members present.

House Joint Resolution 16 was discussed first. Representative Raeth, chief sponsor, explained that the name Koocanusa was taken from the names Kootenai, Canada and U.S.A. He said that the bill provides that the level of water in the lake will be adequate. There were no opponents. A short question and answer period followed. Mr. Freeman said he had no facts and figures on the nitrogenation level resulting from the dam, but he will have someone from the department come over and talk to the committee if they wish.

House Bill 206 was discussed next. Representative Johnston, chief sponsor, explained the bill, and Mr. Wyn Freeman of the Fish and Game Department said they concur with the bill. Representative Burnett appeared before the committee and proposed the attached amendments. After some discussion, Representative Johnston moved adoption of the proposed amendments. The motion passed unanimously.

House Bill 205 was discussed next. Representative Johnston, chief sponsor, went through the bill and explained the provisions. Mr. Wyn Freeman said that the substance of the bill was taken from a model bill from the International Association of Fish and Game. There are 38 states that have passed similar laws. Miss Tina Deatsch representing the Montana League of Conservation Voters, Sierra Clubs, Montana Wilderness Association, and the University of Montana Wildlife Club testified in favor of the bill. Mr. Dave Smith, Montana Woolgrowers Association, (statement attached) also testified in favor of the bill, and proposed amendments thereto. There were no opponents to the bill. A discussion followed in certain provisions of the bill relating to the heavy fines and the provision which allows arrest without probably cause. Mr. Gary Gingery discussed poisoning of prairie dogs which ferrets feed on. He explained the guidelines for prairie dog control. The amount of 3% of license fees to fund the bill was also questioned. Mr. Freeman said this amount was to put 4 or 5 people in the field to implement the bill.

Representative Johnston moved that the chairman appoint a sub-committee to study and propose amendments to the bill. The motion was seconded and failed with Representatives Staigmiller, Clemow, Galt, Barrett, Brand, Forsgren, Siefert and Stephens voting NO. Representative Brand then moved that House Bill 205 DO NOT PASS. Representative Menahan made a substitute motion that House Bill 205 DO PASS. After discussion, the substitute motion was voted on and failed with Representatives Johnston, Huennekins, Baucus and Menahan voting YES. The original motion that the bill DO NOT PASS was then voted on and passed with Representatives Johnston, Huennekins, Baucus and Menahan voting NO.

Representative Menahan distributed the attached amendments to House Bill 205 and explained them. Representative Johnston moved adoption of the amendments. The motion was seconded and passed unanimously (Representative Baucus excused). He then moved that House Bill 205 DO PASS AS AMENDED. The motion passed with Representatives Staigmiller, Clemow, Galt and Prevost voting NO (Representative Baucus excused).

Representative Menahan moved that House Bill 417 DO PASS. The motion was seconded and passed unanimously.

Representative Menahan then moved that House Bill 452 DO NOT PASS. After some discussion, he withdrew his motion and Representative Johnston moved to amend page 1, line 23, by striking the $5 and inserting $3. The motion was seconded and passed unanimously (Representative Baucus excused). Representative Johnston then moved that House bill 452 DO PASS AS AMENDED. The motion was seconded and failed with Representatives Staigmiller, Barrett, Brand, Menanan, Stephens, Huennekens and Prevost voting NO. (Representative Baucus excused.)

Representative Brand then moved that House Bill 452 DO NOT PASS. The motion was seconded and passed with Representatives Staigmiller, Barrett, Brand, Menahan, Stephens, Huennekens and Prevost voting YES (Representative Baucus excused).

Representative Menahan moved that House Joint Resolution 31 DO PASS. The motion was seconded and passed unanimously (Representative Baucus excused).

Representative Hager moved that Senate Joint Resolution 13 BE CONCURRED IN. The motion was seconded and passed with Representatives Brand and Menahan voting NO (Rep. Baucus excused).

Representative Johnston moved that House Bill 242 DO NOT PASS. The motion was seconded and passed unanimously (Representative Baucus excused).

There being no further business, the meeting adjourned at 12 noon.

JOHN B. STAIGMILLER, Chairman

House Bill No. 205
Proposed Amendments

Amend section 2 of House Bill 205 as follows: by deleting at line 7, page 3 of the original bill, the word "species" and inserting in lieu thereof the word "wildlife"; and by inserting at line 10, page 3 of the original bill after the word "state" the following:

> "Animals designated by statute or regulation of this state as predatory in nature are not classified as 'nongame wildlife' for purposes of this act."

Amend section 3 of House Bill 205 by deleting at lines 16 to 19, inclusive, page 4 of the original bill, the entire subsection (4).

Amend section 8 of House Bill 205 as follows: by deleting in lines 22 and 23, page 9 of the original bill, the words, figures, and punctuation "subsection (3) of section 4 or any regulations issued under section 4" and inserting in lieu thereof the words "this act"; by deleting in line 25, page 9 and line 1, page 10 of the original bill, the words, figures and punctuation as follows: "subject to the penalties prescribed in section 26-324" and inserting in lieu thereof the words "guilty of a misdemeanor"; by deleting in lines 2 to 7, inclusive, of page 10 of the original bill, the entire subsection (2) and all material contained therein; by deleting in line 8, page 10 of the original bill the punctuation and figures "(3)" and inserting in lieu thereof "(2)"; by deleting in line 9, page 10 of the original bill, the word "police" and inserting in lieu thereof the word "peace"; by deleting at lines 11 to 23, inclusive, page 10 of the original bill, all material contained therein and

inserting in lieu thereof "to enforce the provisions of this act."; by deleting in line 24, page 10 of the original bill, the words, figures and punctuation "(4) Equipment, merchandise, wildlife or records" and inserting in lieu thereof the words and figures "(3) Wildlife"; by deleting in line 25, page 10 and in line 1, page 11 of the original bill, the words, figures and punctuation "subsection (3) of this section" and inserting in lieu thereof the words "this act"; by deleting in line 3, page 11 of the original bill the words "destruction or"; by deleting in line 7, page 11 of the original bill, the punctuation "," and inserting in lieu thereof a period "."; by deleting in line 8, page 11 of the original bill the words and punctuation "costs thereof to be assessable to defendant."

Amend section 10, at lines 10 to 17, inclusive, page 12 of the original bill, by striking the said section from the bill.

There was no opposition to this bill, and the committee had discussion.

Senator Siderius moved and Senator Sorenson seconded that we adopt this Resolution. After a roll call vote, a "BE ADOPTED" was put on the Resolution.

House Bill 235 - Senator McOmber discussed his proposed amendments to the bill, copy of which is attached.

Senator McOmber moved and Senator Breeden seconded that we adopt the amendments. The committee was in favor of the amendments.

Senator McOmber moved and Senator McCallum seconded that we concur in the bill as amended. After a roll call vote, an "AND AS SO AMENDED BE CONCURRED IN" was put on the bill. Senator McOmber will carry the bill on the Senate floor.

Chairman Keenan adjourned the meeting.

P. J. KEENAN
Chairman

SENATE COMMITTEE FISH AND GAME

Date 3/6/43 Session Bill No. 205 Time 12 30 P.M.

As Amended

NAME	YES	NO
Breeden, J. W.		
Carl, Fred	Absent	
Goodheart, R. J.		
Jensen, Arthur		
McCallum, George		
McNaser, William		
McOmber, Gordon		
Northey, Harry		
Siderius, George		
Sorenson, C. F., Vice Chmn.		
Keenan, P. J., Chmn.		

Secretary Lynn Hiatt

Chairman P. J. Keenan

Motion: Do Pass As Amended & Recommit

(Please leave prepared statement with Secretary)

HOUSE BILL NO. 205 is amended

in section 2(5a), page 2, line 12, following the word "to" by inserting the words "recommend that the legislature";

in section 4(1), page 5, line 12. following the word "regulations" by inserting the words "on the approval of the legislature";

in section 4(2), page 5, line 20, following the word "wildlife" by inserting the words "as designated by the legislature";

in section 5(1), page 6, lines 11 and 12, following the word "shall" on line 11, by deleting the words "by regulation propose" and inserting in lieu thereof the words "recommend to the legislature";

in section 5(2), page 6, line 19.following the word "commission." by deleting the word "may" and inserting in lieu thereof the words "shall request the legislature to";

in section 5(4), page 8, line 4, following the word "commission" by deleting the words "by regulation" and inserting in lieu thereof the words "recommends and the legislature"; and

in section 5(4), page 8, lines 5 and 6, following the word and punctuation "state." on line 5, by deleting the sentence "Any such regulation shall be effective upon promulgation."

facilities acquired under the provisions of this act, shall be *deposited to the state general fund.*"

Approved: March 24, 1973.

CHAPTER NO. 460

An Act to Amend Section 11-1932, R.C.M. 1947, Increasing Minimum Wages of Firemen.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1932, R.C.M. 1947, is amended to read as follows:

"11-1932. **Minimum wages of firemen in cities of first and second class.** From and after July 1, *1973*, there shall be paid to each duly appointed and confirmed member of the fire department of cities or towns of the first class of the state of Montana, a minimum wage for a daily service of eight (8) consecutive hours work of at least *six hundred dollars ($600)* per month for the first year of service, and thereafter of at least *six hundred dollars ($600)* minimum per month plus one per cent (1%) of said minimum base monthly salary for each additional year of service up to and including the twentieth year of such additional service. From and after July 1, *1973*, there shall be paid to each duly appointed and confirmed member of the fire department of cities of the second class of the state of Montana, a minimum wage for a daily service of eight (8) consecutive hours work, of at least *six hundred dollars ($600)* per month for the first year of service, and thereafter of at least *six hundred dollars ($600)* minimum per month plus one per cent (1%) of said minimum base monthly salary of for each additional year of service up to and including the twentieth year of such additional service."

Approved: March 24, 1973.

CHAPTER NO. 461

An Act to Provide for the Conservation, Management, Enhancement and Protection of Nongame Fish and Wildlife and Species Threatened with Extinction; and to Provide Enforcement Authority and Penalties for Violations.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act shall be known and may be cited as "The Nongame and Endangered Species Conservation Act."

Section 2. As used in this act:

(1) "department" means the department of fish and game;

(2) "director" means the director of the state department of fish and game;

(3) "commission" means the fish and game commission;

(4) "ecosystem" means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life;

(5) "endangered species" means any species or subspecies of wildlife actively threatened with extinction due to any of the following factors:

(a) the destruction, drastic modification, or severe curtailment of its habitat, or

(b) its overutilization for scientific, commercial or sporting purposes, or

(c) the effect on it of disease, pollution, or predation, or

(d) other natural or man-made factors affecting its prospects of survival or recruitment within the state, or

(e) any combination of the foregoing factors. The commission shall have authority to recommend that the legislature include any species or subspecies of fish and wildlife appearing on the United States' list of endangered native fish and wildlife as it appears on the effective date of this chapter (part 17 of title 50 of the Code of Federal Regulations, appendix D) as well as any species or subspecies of fish and wildlife appearing on the United States' list of endangered foreign fish and wildlife (part 17 of title 50 of the Code of Federal Regulations, appendix A), as such list may be modified hereafter;

(6) "management" means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. The term includes the entire range of activities that constitute a modern scientific resource program including, but not limited to, research, census, law enforcement, habitat acquisition and improvement, and education. Also included within the term, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking;

(7) "nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean or other wild animal

not otherwise legally classified by statute or regulation of this state. Animals designated by statute or regulation of this state as predatory in nature are not classified as "nongame wildlife" for purposes of this act;

(8) "Optimum carrying capacity" means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function;

(9) "person" means any individual, firm, corporation, association or partnership;

(10) "take" means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife;

(11) "wildlife" means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean or other wild animal or any part, product, egg or offspring or the dead body or parts thereof.

Section 3. The legislature finds and declares all of the following:

(1) that it is the policy of this state to manage certain nongame wildlife for human enjoyment, for scientific purposes, and to insure their perpetuation as members of ecosystems;

(2) that species or subspecies of wildlife indigenous to this state which may be found to be endangered within the state should be protected in order to maintain and to the extent possible enhance their numbers;

(3) that the state should assist in the protection of species or subspecies of wildlife which are deemed to be endangered elsewhere by prohibiting the taking, possession, transportation, exportation, processing, sale or offer for sale or shipment within this state of species or subspecies of wildlife unless such actions will assist in preserving or propagating the species or subspecies; and

Section 4. (1) The department shall conduct investigations on nongame wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations the department shall issue management regulations. Such regulations shall set forth species or subspecies of nongame wildlife which the department deems in need of management pursuant to this section, giving their common and scientific names by species and subspecies. The

department shall conduct ongoing investigations of nongame wildlife. The commission may from time to time amend such regulations on the approval of the legislature by adding or deleting therefrom species or subspecies of nongame wildlife.

(2) The commission shall by such regulations establish proposed limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment as may be deemed necessary to manage such nongame wildlife. The commission may make such changes in the proposed regulations as are consistent with effective management of nongame wildlife as designated by the legislature.

(3) Except as provided in regulations issued by the commission, it shall be unlawful for any person to take, possess, transport, export, sell or offer for sale nongame wildlife deemed by the commission to be in need of management pursuant to this section. Subject to the same exception, it shall further be unlawful for any common or contract carrier knowingly to transport or receive for shipment nongame wildlife deemed by the commission to be in need of management pursuant to this section.

Section 5. (1) On the basis of investigations on nongame wildlife provided for in section 4 and other available scientific and commercial data, and after consultation with other state wildlife agencies, appropriate federal agencies, and other interested persons and organizations, but not later than one (1) year after the effective date of this act, the commission shall recommend to the legislature a list of those species and subspecies of wildlife indigenous to the state which are determined to be endangered within this state, giving their common and scientific names by species and subspecies.

(2) The department shall conduct a review of the state list of endangered species within not more than two (2) years from its effective date and every two (2) years thereafter and the commission shall request the legislature to amend the list by such additions or deletions as are deemed appropriate and at such times as are deemed appropriate.

(3) Except as otherwise provided in this chapter, it shall be unlawful for any person to take, possess, transport, export, sell or offer for sale and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on any of the following lists:

(a) the list of wildlife indigenous to the state determined to be endangered within the state pursuant to subsection (1);

(b) any species or subspecies of fish and wildlife included

by the commission and appearing on the United States' list of endangered native fish and wildlife as it appears on the effective date of this chapter (part 17 of title 50, Code of Federal Regulations, appendix D); and the United States' list of endangered foreign fish and wildlife (part 17 of title 50, Code of Federal Regulations, appendix A), as such list may be modified hereafter; provided, that any species or subspecies of wildlife appearing on any of the foregoing lists which enters the state from another state or from a point outside the territorial limits of the United States and which is transported across the state destined for a point beyond the state may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(4) In the event the United States' list of endangered native fish and wildlife is modified subsequent to the effective date of this chapter by additions or deletions, such modifications whether or not involving species or subspecies indigenous to the state may be accepted as binding under subsection (3) if, after the type of scientific determination described in subsection (1), the commission recommends and the legislature accepts such modification for the state.

Section 6. (1) The director shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for management of nongame and endangered wildlife. The commission shall establish such policies as are necessary to carry out the purpose of this section.

(2) In carrying out programs authorized by this section, the commission may enter into agreements with federal agencies, political subdivisions of the state, or with private persons for administration and management of any area established under this section or utilized for management of nongame or endangered wildlife.

(3) The governor shall review other programs administered by him and, to the extent practicable, utilize such programs in furtherance of the purposes of this section. The governor shall also encourage other state and federal agencies to utilize their authorities in furtherance of the purposes of this section.

(4) The director may permit the taking, possession, transportation, exportation or shipment of species or subspecies of wildlife which appear on the state list of endangered species, on the United States' list of endangered native fish and wildlife, as amended and accepted in accordance with subsection (4) of section 5, or on the United States' list of endangered foreign fish and wildlife, as such list may be modified hereafter, for scientific, zoological, or educational purposes, for propagation in captivity of such wildlife, or for other special purposes.

(5) Upon good cause shown, and where necessary to alleviate damage to property or to protect human health, endangered species may be removed, captured or destroyed but only pursuant to permit issued by the director and, where possible, by or under the supervision of an agent of the department; provided, that endangered species may be removed, captured or destroyed without permit by any person in emergency situations involving an immediate threat to human life. Provisions for removal, capture or destruction of nongame wildlife for the purposes set forth above shall be set forth in regulations issued by the commission pursuant to subsection (1) of section 4.

Section 7. The commission shall issue such regulations as are necessary to carry out the purposes of this act.

Section 8. (1) Any person who violates the provisions of this act or whoever fails to procure or violates the terms of any permit issued thereunder shall be guilty of a misdemeanor.

(2) Any officer employed and authorized by the director or any peace officer of the state or of any municipality or county within the state shall have authority to enforce the provisions of this act.

(3) Wildlife seized under the provisions of this act shall be held by an officer or agent of the department pending disposition of court proceedings, and thereafter be forfeited to the state for disposition as the director may deem appropriate; provided, that, prior to forfeiture, the director may direct the transfer of wildlife so seized to a qualified zoological, educational, or scientific institution for safekeeping. The commission is authoried to issue regulations to implement this subsection.

Section 9. (1) None of the provisions of this act shall be construed to apply retroactively or to prohibit importation into the state of wildlife which may be lawfully imported into the United States or lawfully taken or removed from another state or to prohibit entry into the state or possession, transportation, exportation, processing, sale or offer for sale or shipment of any wildlife whose species or subspecies is deemed to be threatened with statewide extinction in this state but not in the state where originally taken if the person engaging therein demonstrates by substantial evidence that such wildlife was lawfully taken or removed from such state; provided, that this subsection shall not be construed to permit the possession, transportation, exportation, processing, sale or offer for sale or shipment within this state of

wildlife on the United States' list of endangered native fish and wildlife, as amended and accepted in accordance with subsection (4) of section 5, except as permitted in the provision by subsection (3) of section 5 and subsection (4) of section 6.

(2) If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of this act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Approved: March 24, 1973.

CHAPTER NO. 462

An Act to Amend Section 32-1123, R.C.M. 1947, Increasing the Allowable Width of Vehicles and the Moving Distance of Farm Vehicles; and Altering the Flagmen Escort Requirements of Farm Vehicles.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-1123, R.C.M. 1947, is amended to read as follows:

"32-1123. **Standards of maximum dimensions, weights, etc.** The following standards are hereby made applicable to and shall govern the maximum dimensions and weights of motor vehicles, and other characteristics and factors thereof, operating over the highways of and in the state of Montana, to the exclusion of any other standards or any other requirements respecting the subject matter: (1) **Definitions.** For the purpose of this act, the following definitions shall apply.

(a) Vehicle—as defined in section 32-2102, R.C.M. 1947.

(b) Motor vehicle—as defined in section 32-2102, R.C.M. 1947.

(c) Truck-Tractor—as defined in section 32-2103, R.C.M. 1947.

(d) Truck—as defined in section 32-2104, R.C.M. 1947.

(e) Trailer—as defined in section 32-2105, R.C.M. 1947.

(f) Semitrailer—as defined in section 32-2105, R.C.M. 1947.

(g) Dolly or converter gear—a device consisting of one (1) or two (2) axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, thereby converting a semitrailer into a full trailer as defined in section 32-2105, R.C.M. 1947.

(2) Width—No vehicle, unladen or with load, shall have a total outside width in excess of *one hundred two (102)* inches, *except buses which may have a total outside width not to exceed one hundred two (102) inches, and such bus width shall be allowed only on paved highways twenty (20) feet or more in width*; provided, however, that this restriction does not apply to implements of husbandry moved or propelled upon the highway during daylight hours for a distance of not more than *one hundred (100)* miles, if the movement is incidental to the farming operations of the owner of the implement of husbandry; provided, further, that with respect to such implements of husbandry having a width in excess of twelve (12) feet, it shall be preceded by *a flagman escort* for the purpose of warning other highway users, *provided, however, that this restriction does not apply to dual wheel tractors under fifteen (15) feet overall width which are used in farming operations. The rear of such an implement of husbandry shall properly display lights which meet standard requirements in section 32-21-134, R.C.M. 1947. However, if the highway passes through a hazardous area, such implements of husbandry must be preceded and followed by flagman escorts.*

(3) Height—No vehicle, unladen or with load, shall exceed a height of thirteen (13) feet, six (6) inches.

(4) Length—(a) No single truck, unladen or with load, shall have an over-all length, inclusive of front and rear bumpers, in excess of thirty-five (35) feet.

(b) No single bus, unladen or with load, shall have an over-all length, inclusive of front and rear bumpers, in excess of forty (40) feet.

(c) No combination of truck and trailer, tractor and semitrailer, tractor-semitrailer-full trailer, or tractor-semitrailer-semitrailer converted to a full trailer by use of a dolly equipped with a fifth wheel, shall have an over-all length, inclusive of front and rear bumpers, in excess of sixty (60) feet, provided that when the combination consists of more than two (2) units the rear units of such combination shall be equipped with breakaway brakes.

(d) No motor vehicle shall tow more than one (1) motor vehicle and no motor vehicle shall draw more than two (2) motor vehicles attached thereto by the dual saddlemount method, that is by mounting the front wheels of one (1) vehicle on the bed of another leaving the rear wheels only of such vehicle in contact with the roadway, nor shall such combination have an over-all length, inclusive of front and rear bumpers, in excess of sixty (60) feet.